

Cherokee County Board of Commissioners  
January 24, 2022 Meeting Minutes

**Board members present:** Dr. Dan Eichenbaum, Gary Westmoreland, Jan Griggs, Randy Phillips, and Cal Stiles.

**Others present:** Randy Wiggins, County Manager; Maria Hass, Assistant County Manager and Clerk to Board; Candy Anderson, Finance Director; and, Darryl Brown, County Attorney.

**Time:** 6:30 P.M.

**Location:** Cherokee County Courthouse, Room 342.

**Call to Order and Ethics Statement**

Members were advised of their duty under the Local Government Ethics Act.

**Invocation**

Invocation given by Randy Wiggins.

**Pledge of Allegiance**

Led by Chairman Eichenbaum.

**Call to Order and Ethics Statement**

Members of the County Board of Commissioners were advised of their duty under the Local Government Ethics Act.

**Modification of Agenda**

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to add a budget revision to the agenda for Cherokee County Schools request for use of Article 40 & 42 sales tax. Motion passed unanimously.

**Agenda Adoption**

Motion made by Commissioner Stiles and seconded by Commissioner Griggs to approve the agenda as modified. Motion passed unanimously.

**Public Hearing on Draft Noise Ordinance**

Motion made by Commissioner Phillips and seconded by Commissioner Griggs to open the public hearing. Motion passed unanimously. The county attorney read a statement prior to public comments. The statement is attached as Appendix A of these minutes. Several members of the public attended and spoke during the public hearing. Motion made by Commissioner Griggs and seconded by Commissioner Phillips to close public hearing. Motion passed unanimously.

## **Budget and Finance**

### a) Budget Revision for Cherokee County Schools Request for Use of Article 46 Sales Tax

Motion made by Commissioner Stiles and seconded by Commissioner Griggs to approve a budget revision for the use of Article 46 sales tax in the amount of \$23,249 for multiple school projects. Motion passed unanimously.

### b) Budget Revision for Cherokee County Schools Request for Use of Article 40 & 42 Sales Tax

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to approve a budget revision for use of Article 40 & 42 sales tax in the amount of \$721,500 to pay LS3P expense for consolidated high school. Voting on favor of the Motion was Commissioners Phillips, Westmoreland and Eichenbaum. Voting against the Motion was Commissioners Griggs and Stiles. Motion passed 3-2.

## **County Manager Items**

After discussion, a Motion was made by Commissioner Phillips and seconded by Commissioner Westmoreland to rescind a vote from the January 3, 2022 meeting approving an independent sound study of the crypto mining operation on Harshaw Road. Motion passed unanimously. It was decided that the county would engage with an engineering firm to conduct an independent sound study, after the ANKR mining construction project is complete.

## **Chair/Commissioner Items**

Commissioner Westmoreland discussed the need for repairing the gears of the courthouse clock tower, as well as the need for plaster repairs in the courthouse rotunda. He will gather cost information and bring back to the Board at a future meeting.

## **Adjourn**

Motion made by Commissioner Stiles and seconded by Commissioner Griggs to adjourn the meeting. Motion passed unanimously.

## Appendix A

Several weeks ago the Board of Commissioners asked me to evaluate the county noise ordinance for applicability and legal sufficiency to address the crypto mine situation on Harshaw Road. As previously stated, our current ordinance is so vaguely worded that it would be unenforceable in a court of law.

The Board then instructed me to draft an ordinance that would pass muster in a court of law. This was quite simply the BEGINNING of the legislative process. The ordinance has gone through a number of drafts as individual commissioners have weighed in on both form and substance. The legislative process is a matter of weighing and revision. The commissioners have received input from many citizens as have I and other members of county government. Tonight's public hearing is an important and very necessary part of the legislative process. I encourage each and every one here to offer your opinions and suggestions.

I spoke sometime back about crafting an ordinance that did not produce unintended consequences.



This has led to many questions about the substance of the ordinance in addressing the crypto mine noise. A general, wide reaching noise ordinance in many ways may create more problems than it solves.

During this process, I and other county officials have discussed the issues regarding this ordinance with law enforcement, legal scholars, officials from other counties and many others.

After doing further research, I have come to the following conclusions that I can state publicly to the Board and the citizens of Cherokee County:

1. The wide-ranging ordinance currently before the Board has too many exceptions to be effective.
2. The penalties that are allowed by state statute are totally inadequate to provide a deterrent especially if the offender is a corporation.
3. After discussion with Sheriff Palmer, Chief Wood and Captain Swanson, I have concluded that it would be nearly impossible to serve a

criminal summons for a noise ordinance violation on a corporation.

4. The man-hours required to enforce the wide-ranging ordinance would be tremendous and would require an officer with specialized equipment to enforce.
5. Our courts are already clogged with minor violations that take precious court time to prosecute.

Based these conclusions, I cannot recommend that the Board adopt the noise ordinance that is currently being considered as it does not adequately address the crypto mine noise and has too many negative collateral consequences.

At this time, I can make the following recommendations regarding addressing the crypto mine issue:

1. That the Board consider a land use ordinance to prevent further injurious industry invasion of the county and to curtail expansion of unenclosed current crypto mining operations. I

would like to thank Merinda Woody, the Attorney for Clay County, for sharing her knowledge of the Clay County land use regulation board which has been in place for over a quarter of a century. Such does not exist in Cherokee County. The current moratorium on crypto mines in Clay County is possible because they have a land use regulation ordinance.

2. The Board may also consider a specific industrial noise ordinance for noise generated from machinery. However, there would remain the same enforcement problems as with the general noise ordinance now before the Board.
3. The Board and the public should continue to encourage our state legislature to declare crypto mines as public nuisances.
4. The single best remedy available to citizens affected by crypto mine noise is a private nuisance action against the crypto miners who operate in unenclosed facilities. This remedy is available right now to private citizens.

Whatever decisions the Board makes, I would advise it to be deliberate in its actions and to

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Whatever decisions the Board makes, I would advise it to be deliberate in its actions and to

consider the consequences of such actions before passing any ordinance.